

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

ANTONIO-DEVON SMITH,

Plaintiff,

v.

CIVIL ACTION NO. 2:25-cv-00131

CHARLESTON POLICE DEPARTMENT, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the Court are four motions to dismiss: (1) Defendant Charleston Police Department's ("CPD") Motion to Dismiss (ECF No. 15); (2) Defendant Victor & Victor's Amended Motion to Dismiss (ECF No. 27); (3) Defendant West Virginia Judiciary's Motion to Dismiss (ECF No. 29); and (4) Defendant South Central Regional Jail's ("SCRJ") Motion to Dismiss or, in the Alternative, Motion for Summary Judgment (ECF No. 34). Also pending are two motions filed by Plaintiff Antonio-Devon Smith ("Plaintiff"): (1) Motion to Challenge Personal Jurisdiction and Void State Actions (ECF No. 40), and (2) Motion for Status Conference, Clarification on Substitution of Defendants, and Request for Post-Stay Scheduling Order (ECF No. 79). By standing order, this matter was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation ("PF&R"). (ECF No. 6.)

Magistrate Judge Tinsley filed his PF&R on November 7, 2025, recommending that the Court grant the four motions to dismiss, deny Plaintiff's Motion to Challenge Personal Jurisdiction and Void State Actions, and grant in part and deny in part Plaintiff's Motion for Status Conference,

Clarification on Substitution of Defendants, and Request for Post-Stay Scheduling Order. (ECF No. 93 at 2.) Magistrate Judge Tinsley specifically recommended (1) that Plaintiff be granted leave to amend his Complaint with respect to his claims against Defendant CPD, naming the City of Charleston as a Defendant in the Amended Complaint in lieu of CPD;¹ and (2) that Plaintiff's remaining requests for relief, including his request for a status conference, be denied as moot. (*Id.* at 21.)

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the plaintiff's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R were due on November 24, 2025. (ECF No. 93 at 22.) To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R (ECF No. 93), **GRANTS** Defendant CPD's Motion to Dismiss (ECF No. 15), **GRANTS** Defendant Victor & Victor's Motion to Dismiss (ECF

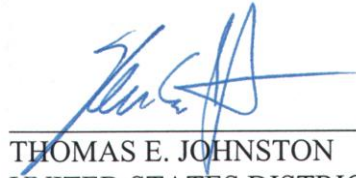
¹ Plaintiff filed a Motion for Leave to File Amended Complaint, (ECF No. 94), pursuant to the PF&R's recommendation, (*see* ECF No. 93 at 21). However, the proposed amended complaint, (ECF No. 94-1), exceeds the scope of the Magistrate Judge's recommendation to allow Plaintiff to amend his complaint *only* to name the City of Charleston as a defendant in lieu of CPD, (*see* ECF No. 93 at 21). Accordingly, the Court **GRANTS** Plaintiff's Motion for Leave to File Amended Complaint, (ECF No. 94), but **STRIKES** Plaintiff's amended complaint, (ECF No. 94-1), as it is inconsistent with this adopted narrow recommendation. The Court further **DIRECTS** Plaintiff to file an amended complaint only as it pertains to naming the City of Charleston as a defendant in lieu of CPD.

No. 27), **GRANTS** Defendant West Virginia Judiciary's Motion to Dismiss (ECF No. 29), **GRANTS** Defendant SCRJ's Motion to Dismiss (ECF No. 34), **DENIES** Plaintiff's Motion to Challenge Personal Jurisdiction and Void State Actions (ECF No. 40), and **GRANTS IN PART** and **DENIES IN PART** Plaintiff's Motion for Status Conference, Clarification on Substitution of Defendants, and Request for Post-Stay Scheduling Order (ECF No. 79).

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: February 2, 2026

A handwritten signature in blue ink, appearing to read 'Thomas E. Johnston', is written over a horizontal line.

THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE